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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 RAYMOND W. LONDON, on behalf of
12 himself and all others similarly situated,

13 Plaintiff,

14 vs.

15 NEW ALBERTSON'S, INC.;
16 CERBERUS CAPITAL
MANAGEMENT (CALIFORNIA), LLC;
and SAVE MART SUPERMARKETS
and DOES 2 through 25, inclusive,

17 Defendants.
18

CASE NO. 08-CV-1173 H (CAB)

**ORDER DENYING AS MOOT
DEFENDANTS' MOTIONS TO
DISMISS PLAINTIFF'S
COMPLAINT**

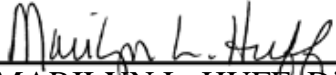
19 On May 29, 2008, Plaintiff Raymond W. London ("Plaintiff") filed a complaint in the
20 Superior Court of the State of California, County of San Diego, against defendants New
21 Albertson's, Inc. and Cerberus Capital Management (California), LLC ("Cerberus"). (See
22 Notice of Removal.) On July 1, 2008, Plaintiff added Save Mart Supermarkets as an additional
23 named defendant pursuant to Cal. Code Civ. P. § 474. (Id., Ex. A.) On July 2, 2008,
24 defendants New Albertson's, Inc. and Cerberus removed the entire action to this Court. (Doc.
25 No. 1.)

26 On July 10, 2008, New Albertson's, Inc. and Cerberus filed separate motions to dismiss
27 Plaintiff's complaint. (Doc. Nos. 5, 11.) On July 28, 2008, Plaintiff filed an amended
28 complaint. (Doc. No. 14.) Accordingly, the Court denies as moot Defendants' motions to

1 dismiss Plaintiff's original complaint, without prejudice to Defendants' ability to move for
2 dismissal of Plaintiff's amended complaint.

3 IT IS SO ORDERED.

4 DATED: August 4, 2008

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6 MARILYN L. HUFF, District Judge
7 UNITED STATES DISTRICT COURT

8 COPIES TO:
9 All parties of record.
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